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CENTRAL ADMINISTRATIVE TRIBUNAL,
JODHPUR BENCH, JODHPUR

ORIGINAL APPLICATION NO.: 171/2002

DATE OF ORDER: 17.02.2003

Budha Ram Son of Late Shri Harka Ram, aged 29 years,
R/o Plot No. 17, Near Petrol Pump, Bhagat Ki Kothi,
Jodhpur (Shri Harka Ram son of Shri Parasa Ram, Ex-
Carpenter in the Office of the Garrison Engineer,
Air Force, Jodhpur.

...APPLICANT



V E R S U S

1. Union of India through the
Secretary to the Government,
Ministry of Defence, Raksha Bhawan,
New Delhi.

2. Chief Engineer, MES,
Air Force, Ahmedabad.

3. Commander Works Engineer,
Air Force, Jodhpur.

...Respondents.

Mr. Vijay Mehta, counsel for the applicant.

Mr. Vinit Mathur, counsel for the respondents.

CORAM:

HON'BLE MR. J.K. KAUSHIK, JUDICIAL MEMBER.

: O R D E R : (Oral)

Shri Budha Ram has assailed the order dated 11 June,
2002 (Annexure A/1) by which his claim of compassionate
appointment has been turned down and rejected.

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2. The brief facts of the case are that applicant is the son of late Shri Harka Ram. Late Shri Harka Ram was employed on the post of Carpenter HS II in the Office of 3rd respondent and died on 17.08.2000 while in service. The deceased Government servant was survived with his widow, his widowed mother, two sons and one married daughter, none of whom is an employment. The mother of the applicant is getting Rs 2500/- per month as family pension. The family of the deceased are living in a small dwelling house and does not have any source of income. The applicant is 8th pass. An application was moved for compassionate appointment in respect of the applicant immediately after the death of late Shri Harka Ram.

3. He also fulfilled the necessary formalities but nothing substantial was done and he had to file an O.A. No. 295/2001 before this Tribunal which came to be disposed of vide order dated 14.05.2002 (Annexure A/13), with a direction to the respondents to finalise the case within a specified period. Thereafter the case has been turned down vide order dated 11.06.2002 (Annexure A/1) and the detailed reasons have been given therein. It has also been submitted that the case of the applicant was considered and the same was not recommended by the Board of Officers.

4. The Original Application has been filed on number of grounds and it has been mentioned that marks are required to be given on different counts and then a comparison is to be made but such exercise has not been done.

5. The respondents have contested the case and have filed the exhaustive reply to the Original Application. It has been submitted that the deceased Government servant was

hardly left to serve for about three and half months to the completion of superannuation period and the widow had been paid about 4.5 lacs as terminal benefits and a family pension of about Rs 3575/- (including Dearness allowance) is being paid to her and therefore the family does not have any financial crisis requiring employment assistance. Further defence as set out in the reply is that all the children of the deceased Government servant are major and also married are supposed to be self-dependent. The representation has been duly considered and has been rejected by the Competent Authority ensure total transparency and giving complete details regarding the rejection and therefore the Original Application may be dismissed.

6. I have heard Mr. Vijay Mehta, learned counsel for the applicant as well as Mr. Vinit Mathur, learned counsel for the respondents and have carefully perused the pleadings and the records of the case. I have also perused the records relating to the consideration of case of applicant on compassionate appointment by a Board of Officers.

7. Mr. Vinit Mathur, learned counsel for the respondents has strenuously submitted that the applicant is above 25 years of age, his age being 29 years as well as married and he cannot be said to be dependent on the deceased Government servant as per the definition of the dependent, family member contemplated in the Scheme for compassionate appointment (Scheme, for brevity) and therefore the very Original Application is not maintainable.

8. Mr. Vijay Mehta, learned counsel for the applicant has submitted that in the Scheme, no age has been prescribed and also the Scheme does not prohibit of compassionate appointment to a dependent who is married. Therefore, there

is not question of non-maintainability of the Original Application.

9. As regards the consideration of compassionate appointment to a dependent who is married, is concerned. It is true that the Scheme does not envisage any prohibition to such person and this position is also clear from an illustrative judgement of Punjab High Court in Surender Singh vs. State of Haryana & Ors. ; SLJ 1996 (2) 230, wherein similar question arose and it was held that the dependent who is married can very well be considered for compassionate appointment. As regards the other objection of the learned counsel for the respondents, that the applicant is about 25 years of age and he cannot be said to be dependent on the deceased Government servant. The Scheme defines the dependent family member as under:-

"NOTE I. - "Dependent Family Member" means:

- (a) spouse; or
- (b) son (including adopted son); or
- (c) daughter (including adopted daughter); or
- (d) brother or sister in the case of unmarried Government servant or member of the Armed Forces referred to in (A) or (B) of this para,

who was wholly dependent on the Government servant/ member of the Armed Forces at the time of his death in harness or retirement on medical grounds, as the case may be."

No doubt the age is not prescribed as regards the compassionate appointments but the Scheme is required to be given harmonious construction. It will be profitable to import the definition of the family from Rule 54 of CCS (Pension) Rules. The contents of the same are extracted as under:-

"(b) "family" in relation to a Government servant means-

- (1) wife in the case of a male Government servant or husband in the case of a female Government servant.

NOTE 1. - Deleted.

NOTE 2. - Deleted.

- (ia) a judicially separated wife or husband, such separation not being granted on the ground of adultery and the person surviving was not held guilty of committing adultery.

- (ii) son who has not attained the age of (twenty-five) years and unmarried daughter who has not attained the age of (twenty-five) years, including such son and daughter adopted legally."

As per the definition in the CCS (Pension) Rules, there can be no dependent Son or Daughter, who has attained the age of twenty-five years and therefore they cannot be considered for compassionate appointment since it is only the dependent family member who can be considered for compassionate appointment. Similar controversy has arisen in O.A. No. 236/2001 ; Abdul Jabbar Pathan vs. UOI & Ors. decided on 03.05.2002, wherein I was one of the party and it has been categorically held that person who was attained the age of more than 25 years cannot be said to be dependent for the purpose of grant of compassionate appointment. Thus, the contention of the learned counsel for the respondents has sufficient force and the Original Application deserves to be dismissed on this count alone. However, the applicant does not have any case even on merits as mentioned in the next Para.

10. The respondents have been very fair and have produced the record of the proceedings wherein the case of the applicant was considered three times. The applicant has been awarded 31 marks in one of the Board whereas the candidate who is selected has got 77 marks. ~~xxx xxxxxx~~

The similar is the position in the other Boards and the marks of the applicant were much lower than the candidate who is recommended for compassionate appointment. The learned counsel for the applicant submitted that the deceased Government servant had four dependents but only 10 marks have been awarded instead of 20 marks. The family is not having any source of income and for that five marks ought to have been awarded. Even if the contention of the learned counsel for the applicant is taken as true, the applicant would have got only 46 marks which is also much lower than the candidates were recommended for the compassionate appointment. In this way the applicant has absolutely no case on merits.

11. The perusal of the impugned order would also reveal that the case of the applicant has been considered and the impugned order passed by the respondents is quite exhaustive and elaborate reasons have been indicated. Thus, there is no illegality, arbitrariness or infirmity in the impugned order and no interference in the matter is called for from this Tribunal.

12. In the result, the Original Application is devoid of any merit and the same is, therefore, rejected. However, the parties are directed to bear their own costs.


(J.K. KAUSHIK)
Judicial Member.

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Kumawat

19/6/72
P/Corr 4

Lee Carl
~~Lee Carl~~
28 Nov

Section officer (Record)